

**RULES
OF
TENNESSEE DEPARTMENT OF HUMAN SERVICES
FAMILY ASSISTANCE DIVISION**

**CHAPTER 1240-1-21
AFDC UNDERPAYMENTS AND OVERPAYMENTS**

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1240-1-21-.01 DEFINITIONS.

- (1) *Administrative (Agency) Error.* An overpayment or underpayment caused by an error made by any representative of the Department of Human Services.

Examples of administrative errors include, but are not limited to, the following;

- (a) Failure to take timely action on a change reported by the AU or known to this department;
 - (b) Incorrect computation of the AUs income or deductions, or authorization of an incorrect grant amount; or
 - (c) Incorrect application of policy.
- (2) *Claim.* The data describing a debt due the State and the unpaid balance of that debt.
- (3) *Claim Determination Report.* The report establishing and documenting an overpayment.
- (4) *Collection.* The process of recovering an overpayment.
- (5) *COTS. Claims Online Tracking System.* The computer system used by the Tennessee Department of Human Services to register, monitor and track AFDC, Food Stamp, and Medicaid claims, claim activity, and the collection process.
- (6) *Grant (Benefit) Reduction.* Process of recovering an overpayment from an active assistance unit by withholding an amount equal to 10% of the payment standard from the monthly AFDC check.
- (7) *Improper Payment Error.* An overpayment caused by a change that was reported timely but caused ineligibility for the month the change occurred.

Examples of improper payment errors include but are not limited to the following:

- (a) The assistance unit was overpaid because the recipient or legally responsible relative was on strike as of the last day of the month;
- (b) The assistance unit was subject to monthly reporting and did not comply with the MR requirement;

(Rule 1240-1-21-.01, continued)

- (c) The assistance unit received sufficient income (earned and/or unearned) in the payment month to result in ineligibility; or
 - (d) The assistance unit received a lump sum payment which resulted in a period of ineligibility being established.
- (8) *Inadvertent Client Error.* A misunderstanding or unintentional failure on behalf of the A/R to provide correct information or to report changes timely and accurately.
- (9) *Intentional Program Violation.* A determination or adjudication of a court that an individual or group of individuals knowingly obtained benefits which they were not eligible to receive.
- (10) *Overpayment (Overage).* Benefits received by an assistance unit which exceed the amount of benefits they were eligible to receive.
- (11) *Suspected Intentional Program Violation.* A determination made by the agency that an overpayment has occurred because the client intentionally provided information that was possibly incorrect or misleading.
- (12) *Underpayment.* Benefits received by an assistance unit that are less than the amount of benefits they were eligible to receive.

Authority: TCA §14-8-106 and 45 CFR 233.20(a)(13). **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980. Repeal and new rule filed June 28, 1983; effective July 28, 1983. Repeal and new rule filed December 2, 1983; effective January 1, 1984. Repeal and new rule filed October 9, 1987; effective January 27, 1988.

1240-1-21-.02 LEGAL PROVISIONS. Title IV-A, Section 402(a)(22) of the Social Security Act and federal regulations 45 CFR 233.20(a)(13), require prompt recovery of overpayments and correction of underpayments. TCA §14-8-120 provides for criminal prosecution of individuals who fraudulently receive AFDC benefits to which they are not entitled.

Authority: TCA §14-8-106 and 45 CFR 233.20(a)(13). **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980. Repeal and new rule filed June 28, 1983; effective July 28, 1983. Repeal and new rule filed December 2, 1983; effective January 1, 1984. Repeal and new rule filed October 9, 1987; effective January 27, 1988.

1240-1-21-.03 POLICY STATEMENT. A claim must be established against any assistance unit that received more AFDC benefits than they were eligible to receive, regardless of the reason for the overpayment. Corrective action must be taken to restore benefits retroactively any time an underpayment for a prior period is discovered when the assistance unit is currently eligible for and receiving benefits, or would be if the error causing the underpayment had not occurred. The Department of Human Services must correctly determine eligibility for AFDC benefits and provide the correct grant to each assistance unit.

Authority: TCA §14-8-106 and 45 CFR 233.20(a)(13). **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980. Repeal and new rule filed June 28, 1983; effective July 28, 1983. Repeal and new rule filed December 2, 1983; effective January 1, 1984. Repeal and new rule filed October 9, 1987; effective January 27, 1988.

1240-1-21-.04 CORRECTION OF AFDC UNDERPAYMENTS. An AFDC underpayment occurs when an assistance unit receives less assistance than they were entitled to because of:

- (1) Incorrect application of policy by the Department of Human Services; or

(Rule 1240-1-21-.04, continued)

- (2) An error in calculating or processing benefits.

Authority: TCA §14-8-106 and 45 CFR 233.20(a)(13). **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980. Repeal and new rule filed June 28, 1983; effective July 28, 1983. Repeal and new rule filed December 2, 1983; effective January 1, 1984. Repeal and new rule filed October 9, 1987; effective January 27, 1988.

1240-1-21-.05 ESTABLISHING THE AFDC OVERPAYMENT. A claim must be established against any assistance unit which has received an AFDC overpayment. Overpayments may occur as a result of:

- (1) Administrative (agency) error;
- (2) Inadvertent client error;
- (3) Improper payment error; or
- (4) Suspected intentional program violation.

Authority: TCA §14-8-106 and 45 CFR 233.20(a)(13). **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980. Repeal and new rule filed June 28, 1983; effective July 28, 1983. Repeal and new rule filed December 2, 1983; effective January 1, 1984. Repeal and new rule filed October 9, 1987; effective January 27, 1988.

1240-1-21-.06 PROCEDURES FOR PROCESSING CLAIMS. Procedures for processing claims in each county are to be established by the district and county administrative staff.

Authority: TCA §14-8-106 and 45 CFR 233.20(a)(13). **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980. Repeal and new rule filed June 28, 1983; effective July 28, 1983. Repeal and new rule filed December 2, 1983; effective January 1, 1984. Repeal and new rule filed October 9, 1987; effective January 27, 1988.

1240-1-21-.07 ESTABLISHING THE PERIOD AND AMOUNT OF THE OVERPAYMENT.

- (1) The policies and need/payment standards that were in effect during the time the overpayment occurred must be used to establish the period and amount of the overpayment. An overpayment can be established for any prior period if the circumstances and overpayment can be determined.
- (2) The amount of the gross overpayment is the difference between all IV-A Benefits (AFDC cash assistance and supplemental payments) the assistance unit received and the corrected benefits they were entitled to receive. The net overpayment is calculated by COTS by reducing the gross overpayment by any IV-D reimbursements of the grant.
- (3) Overpayment Determinations.
 - (a) Overpayments/ineligibility due to non-financial changes begin the month a change could have been effected if timely reported by the client or if the case action had been completed timely by the Department. If a change, either reported or unreported, results in ineligibility (e.g., absent parent returns home, eligible children leave home of applicant/recipient, assistance unit acquires resources which exceed allowable limit, only child reaches 18) and the grant is not correctly adjusted the next possible month, then a claim reporting the overpayment must be prepared.

(Rule 1240-1-21-.07, continued)

- (b) Income changes, either reported or unreported, that result in prospective ineligibility begin the month of the change. The month the change occurred is the month income/earnings were actually received by the applicant/recipient.
- (c) Income changes, either reported or unreported, that result in continued eligibility are handled in the normal prospective/retrospective budgeting methodology.
- (4) Earned Income Penalty. In earned income situations, the earned income disregards (i.e., \$75 work allowance, child care deduction \$30 + 1/3 or \$30 disregard) are not allowed when calculating the amount of the overpayment.

Authority: TCA §14-8-106 and 45 CFR 233.20(a)(13). **Administrative History:** Original rule filed August 15, 1980; effective September 29, 1980. Repeal and new rule filed June 28, 1983; effective July 28, 1983. Repeal and new rule filed December 2, 1983; effective January 1, 1984. Repeal and new rule filed October 9, 1987; effective January 27, 1988.

1240-1-21-.08 DOCUMENTATION OF THE OVERPAYMENT. The case record must contain documentation substantiating each month of overpayment.

Authority: TCA §14-8-106 and 45 CFR 233.20(a)(13). **Administrative History:** New rule filed October 9, 1987; effective January 27, 1988.

1240-1-21-.09 COLLECTION OF AFDC OVERPAYMENTS.

- (1) Collection action must be initiated after the overpayment has been established and the claim prepared.
- (2) We must recover the overpayment from:
 - (a) The assistance unit which was overpaid; or
 - (b) Any assistance unit of which the caretaker and/or other adult member of the overpaid assistance unit has subsequently become a member.
- (3) The net overpayment will be collected through:
 - (a) Grant reduction;
 - (b) Lump sum repayment; or
 - (c) Installment payments.

Authority: TCA §14-8-106 and 45 CFR 233.20(a)(13). **Administrative History:** New rule filed October 9, 1987; effective January 27, 1988.